

PART 401—SHIPPING RESTRICTIONS (T-1)

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AUTHORITY: Sec. 704, 64 Stat. 816, as amended; 50 U.S.C. app. 2154, as amended; Interpret or apply secs. 101, 705, 64 Stat. 799, as amended; 50 U.S.C. app. 2071; E.O. 10480, 3 CFR, 1949-1953 Comp., p. 962.

SOURCE: Transportation Order T-1, 30 FR 9092, July 21, 1965; 32 FR 15831, Nov. 17, 1967. Redesignated at 45 FR 44574, July 1, 1980, unless otherwise noted.

§ 401.1 Prohibited transportation and discharge.

No person shall transport in any ship documented under the laws of the United States or in any aircraft registered under the laws of the United States any commodity at the time not identified by the Symbol B in the last column of the Commodity Control List (339.1 of the Comprehensive Export Schedule, issued by the Bureau of International Commerce, Department of Commerce (15 CFR parts 368 through 399), any article designated as arms, ammunition, and implements of war in the United States Munitions List (22 CFR parts 121 through 128), or any commodity, including fissionable, materials controlled for export under the Atomic Energy Act of 1954, as amended, to any destination at the time in country groups X, Y, or Z as set forth in the Comprehensive Export Schedule (15 CFR 370.1(g)(2)), and no person shall discharge from any such ship or any such aircraft any such commodity or article at any such port or place or at any other port or place in transit to any such destination, unless a validated export license under the Export Control Act of 1949, as amended, under section 414 of the Mutual Security Act of 1954, as amended, or under the Atomic Energy Act of 1954, as amended, has been obtained for the shipment, or unless authorization for the shipment has been obtained from the Assistant Secretary for Domestic and International

Business. This prohibition applies to the owner of the ship or aircraft, the master of the ship or aircraft, or any other officer, employee or agent of the owner of the ship or aircraft who participates in the transportation. The consular officers of the United States are furnished with current copies of the Commodity Control List.

§ 401.2 Application for adjustment or exceptions.

Any person affected by any provisions of this order may file an application for an adjustment or exception upon the ground that such provision works an exceptional hardship upon him, not suffered by others, or that its enforcement against him would not be in the interest of the national defense program. Such an application may be made by letter or telegram addressed to the Assistant Secretary for Domestic and International Business, Department of Commerce, Washington, DC, 20230, reference T-1. If authorization is requested, any such application should specify in detail the material to be shipped, the name and address of the shipper and of the recipient of the shipment, the ports or places from which and to which the shipment is being made and the use to which the material shipped will be put. The application should also specify in detail the facts which support the applicant's claim for an exception.

§ 401.3 Reports.

Persons subject to this order shall submit such reports to the Assistant Secretary for Domestic and International Business as he shall require, subject to the terms of the Federal Reports Act.

§ 401.4 Records.

Each person participating in any transaction covered by this order shall retain in his possession, for at least 2 years, records of shipments in sufficient detail to permit an audit that determines for each transaction that the provisions of this order have been met. This does not specify any particular accounting method and does not require alteration of the system of records customarily maintained, provided such records supply an adequate basis for

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audit. Records may be retained in the form of microfilm or other photographic copies instead of the originals.

§ 401.5 Defense against claims for damages.

No person shall be held liable for damages or penalties for any default under any contract or order which shall result directly or indirectly from compliance with this order or any provision thereof, notwithstanding that this order or such provision shall thereafter be declared by judicial or other competent authority to be invalid.

§ 401.6 Violations.

Any person who wilfully violates any provisions of this order or wilfully conceals a material fact or furnishes false information in the course of operation under this order is guilty of a crime and upon conviction may be punished by fine or imprisonment or both. In addition, administrative action may be taken against any such person, denying him the privileges generally accorded under this order.

PART 402—SHIPMENTS ON AMERICAN FLAG SHIPS AND AIRCRAFT (T-1, INT. 1)

Sec.

402.1 Shipments from the United States.

402.2 Restricted commodities.

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402.4 Calls at restricted ports en route to an unrestricted port with restricted cargo.

402.5 Forwarding commodities previously shipped.

402.6 Relation to Transportation Order T-2.

AUTHORITY: Sec. 704, 64 Stat. 816, as amended; 50 U.S.C. app. 2154. Interpret or apply sec. 101, 64 Stat. 799, as amended; 50 U.S.C. app. 2071, E.O. 10480, 3 CFR, 1949-1953 Comp., p. 962.

SOURCE: Transportation Order T-1, Interpretation 1, 15 FR 9145, Dec. 21, 1950; 32 FR 15831, Nov. 17, 1967. Redesignated at 45 FR 44574, July 1, 1980, unless otherwise noted.

§ 402.1 Shipments from the United States.

Transportation Order T-1 applies to shipments from the United States, as well as to shipments from foreign

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ports, on American flag ships and aircraft.

§ 402.2 Restricted commodities.

The restrictions of Transportation Order T-1 apply to the transportation or discharge of (a) commodities on the Positive List (15 CFR part 399) (as amended from time to time) of the Comprehensive Export Schedule of the Office of International Trade, Department of Commerce, (b) articles on the list of arms, ammunition and implements of war coming within the meaning of Proclamation No. 2776 of March 26, 1948, and (c) commodities, including fissionable materials, controlled for export under the Atomic Energy Act of 1946. The restrictions imposed by Transportation Order T-1 do not apply to other commodities, not within these restricted classes at the time of transportation or discharge, even though authorization for the export of the commodity from the United States to the particular destination is required under regulations of the Office of International Trade or under other Federal law or regulation. In this respect, Order T-1 is different from Order T-2 which applies to all commodities destined to Communist China. Order T-1 does not relax or modify any of the requirements of any other regulation or law.

§ 402.3 Addition of commodities to the Positive List.

Order T-1 applies to the transportation or discharge of commodities which are restricted at the time of transportation or discharge. Accordingly, if a commodity is added to the Positive List while the commodity is being transported on an American flag ship or aircraft, the restrictions of Order T-1 immediately apply and the commodity may not be transported to or discharged at any of the restricted ports or discharged in transit to one of the restricted ports, unless authorization under Order T-1 is obtained.

§ 402.4 Calls at restricted ports en route to an unrestricted port with restricted cargo.

Order T-1 does not prohibit an American flag ship or aircraft from going to or calling at one of the restricted